HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

TUESDAY, FOURTH DAY OF JULY TWO THOUSAND SIX

WRIT PETITION No.12758 of 2006

Between:

M/s. Hyderabad Power Installation (P) Ltd.,
Hyderabad. .. Petitioner

And

1. The Commercial Tax Officer,
Hyderabad and two others. ..Respondents

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ORDER: (Per Hon'ble Sri JC, J)**:**

Aggrieved by a decision of the 3rd respondent-Additional Commissioner (CT) (Legal), Hyderabad, in rejecting the stay application of the petitioner, the present writ petition is filed with a prayer as follows:-

> "To issue a writ or order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the disputed tax of Rs.10,50,180/- arising in pursuance of the stay rejection order of the 3rd respondent dated 12-05-2006 passed in CCT's Ref.No.LIII(2)/307/2006 for the assessment year 1998-99 (APGST) read with the revision order of the 2nd respondent dated 19-01-2006 pending disposal of the appeal before the Sales Tax Appellate Tribunal."

2. The petitioner was a registered assessee by the 1st respondent-Commercial Tax Officer, Hyderabad, and in the assessment made by the 1st respondent for the year 1998-99, it was found that the petitioner is entitled to the refund of certain amounts from out of the amount deducted at source towards the tax. The said decision of the 1st respondent is reversed by the 2nd respondent-Deputy Commissioner (CT), Hyderabad, in *suo motu* revision by his order dated 19-01-2006. Aggrieved by the same, the petitioner preferred an appeal before the Sales Tax Appellate Tribunal, Hyderabad, and pending the said appeal, the petitioner sought stay of recovery of the tax determined by the 2nd respondent in the above mentioned revision. It appears that the 3rd respondent-Additional Commissioner (C.T.), Legal, Hyderabad, rejected the stay application and hence, the present writ petition.

3. According to the revision order of the 2nd respondent, the petitioner is found liable to pay a tax of Rs.13,86,210/-.

4. Heard the learned Government Pleader for Commercial Tax.

5. In the circumstances, we are of the opinion that the matter can be disposed of directing the respondents not to recover the tax due from the petitioner pursuant to the order of the 2nd respondent, on condition of the petitioner depositing half of the tax found liable to the 2nd respondent and in computing the said amount, the amount already paid, if any, shall be given credit to.

6. Accordingly, the Writ Petition is disposed of with the aforementioned direction, at the admission stage. No costs.

(J.CHELAMESWAR,J)

(D.APPARAO, J)

July 4, 2006.
Kvr